

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF INDIANA

[Use this form to sue for employment discrimination. NEATLY print in ink (or type) your answers.]

DAVID KARL

[You are the **PLAINTIFF**, print your full name on this line.]

v.
FAS PAK INC.

[The **DEFENDANT** is who you are suing.]

FIRNHABER

FEB 11 2019

ROBERT J. HARRIS, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

Case Number

2:19cv56

[For a new case in this court, leave blank.
The court will assign a case number.]

[The top of this page is the caption. Everything you file in this case must have the same caption.
Once you know your case number, it is **VERY IMPORTANT** that you include it on everything you send
to the court for this case. **DO NOT** send more than one copy of anything to the court.]

EMPLOYMENT DISCRIMINATION COMPLAINT

- My address is: 201 Monroe St. Apt #7
Valparaiso, IN 46383
- My telephone number is: (708) 728-1752
- The Defendant's address is: 401 Darlington St.
LaPorte, IN 46350
- This action is brought for employment discrimination pursuant to:
 - ☐ Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17.
[race, color, gender, religion, national origin]
 - ☐ Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621 to 634.
 - ☒ Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12112 to 12117.
 - ☐ Other: _____
- I filed a charge of discrimination with the Equal Employment Opportunity Commission or the
Indiana Civil Rights Commission on: Mar. 1 2018
- The date on my Notice of Right to Sue letter is: Sept. 20 2018
- The date I received my Notice of Right to Sue letter was: Sept. 25 2018

[**DO NOT** write in the margins or on the back of any pages. Attach additional pages if necessary.]

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On the date of the incident, I, David K. Firnhaber, was at work at FAS PAK. I was on the assembly line 8 in the main room which is full of loud equipment. Line 8 is in fact at the end of the row and closest to the maintenance station where that day they were welding some machines directly behind me. I was working to fill the boxes with bottles and our line was getting a triple bonus. This meant that we would get paid above our hourly wage because we beat the demand for the day. We were all pretty loud that day to be heard. Since the line was 40 feet long if there was a jam we would yell to the person closest to the shutoff. We were all doing well all day considering the little problems we faced like the tape on the boxes. Sometimes the boxes need to be thrown into a pile for sorting later, due to the serial numbers printed when the boxes are taped shut. A lady came by and kept asking me if I was alright. I kept assuring her that I was great. I told her everyone was good. She kept walking away and coming back asking if I was okay. She was a Latina woman with a dermal facial piercing. I repeatedly assured her I was alright. When she asked me if I was okay the third or fourth time I asked her why she kept checking on me so frequently. She asked me if I was throwing things. I wasn't aware at the time that she might have seen me pop a box flat and toss it under me on the line with the pile of unpackable boxes. I was collecting them under the table at my workstation. I was so bewildered by her questioning that I asked the people around me, my coworkers, if anyone was throwing anything. I turned to her and explained that I had not seen anyone throw anything. She asked me to step off the line and come to the office with her. I tried to assure her that I was fine as we walked to the office. I asked her why she called me off the line as she escorted me to the office. She said I had a bad attitude and needed to stop yelling at her. She articulated somehow that I was verbally offensive. I told her she was yelling to be heard too, and that she would see once I got to the office that I am not being confrontational. When we got to the office I sat down to wait for Kathy as she was with someone already. The main manager of the factory was sitting in one end of the office. I started to wonder what was wrong. I also quickly realized my heart was racing. I just stepped off the line where I was packing boxes with 6 bottles per second and was still in flight mode. I tried to calm down, but I was also confused about why I was there. I started to try to explain this. I told them that I was about to have a panic attack, but no one seemed to realize what was going on either. I was called into the room where Kathy worked. I am not sure if her name is spelled right but she was the head of human resources. The owner walked out as I began to ask why I was there. The Latina woman who brought me there explained that she was a team leader. I asked her why I was there and she said for yelling at her. I calmly as possible explained that the welding going on behind me had everyone loud on our line. The huge fans going on to cool the place make it already hard to hear down the line. Kathy said I was insulting her intelligence and that I was yelling at her too. I was sitting under an air conditioner unit in Kathy's office. I explained that I had not been yelling, and that I would happily demonstrate to prove it. Kathy told me that I was being emotionally unstable. So I reminded the company that I was emotionally handicapped and I wanted to step out of the room for a minute to calm down. They said no, and continued to berate me. I calmly as possible tried to explain that I was not even mad, yet but that I was feeling very confused and upset. Then a third lady came into the room and started yelling at me. This blew my mind. I asked if I could leave for a minute to gather myself. They said no. I asked if a man could be present. They said no. I got really scared so I got up and took the seat closest to the

door. I realized I was having a flashback so I told them. I said I was about to cry and that I wanted to leave. They said no. I said I was having a flashback but that I was in control [of my actions]. I tried to explain that sometimes I get really bad. I didn't explain the seizures, fainting, or running into walls, but I thought they would understand. At that moment a fourth woman entered the room. It was the hiring manager that I had just purchased a bag of candy for. She always kept candy in a jar for everyone who stopped through the office. She was a big African American woman and I had entrusted her with my disabilities when she hired me. She came in and I started shaking and trembling. I sat up and she walked across the room and gave me a hug. I started crying and asking if I could please just get a breath of fresh air outside the door of the shrinking room they held me in. I continued to explain to them that it doesn't even matter if I was angry because I can be angry about without being mean to others. I admitted at that point that I was angry because I had asked for this exact situation to not happen, not only as it progressively developed but when I was hired there to begin with. I told them I was disabled and Kathy said I wasn't. I looked at the silent Latina woman and asked her what was the problem with what I was doing on the line. I tried to keep my focus on the incident on the line, but I could not help but notice the lack of management Kathy had done at getting to the bottom of what even happened. It seemed that all the women in the office except one, the big African American woman who interviewed me and hired me. Who had just hugged me and watched me beg to leave. I believe that they held me in the room for almost 30 minutes, trying to get me to really yell. I tried to remain composed and articulate that they weren't helping manage the business at hand. I was on the line working fine with a great team, and we were getting a triple bonus for the day. At some point I was told that we would finish the conversation later and that I needed to leave. I left the office and was escorted by a young latino male. He was in a way happier mode and since I got out of the office I was able to breathe easier. I talked to him on the way out and explained that they had four women in the room with me three of which would not happily approach the matter at hand. They seemed to want to keep me upset rather than help me calm down. He said he didn't know what happened in there but heard some of it. I told him I asked several times to get out for some air but they refused to allow it. He said I seemed calm to him. Once we were in the middle of the factory I started speaking louder as the main floor is loud with all the lines. I started to explain to him that they gave me a panic attack almost and I had flashbacks of things like this happening and they didn't end great. I used to word bitches to explain that I had seen this behavior before and he laughed and asked what I meant. I don't think he had any idea of the severity of the situation. So I told him I have seen women that act like that all my life and I asked them to let me have a man present if they wouldn't let me step out for a minute to calm down. I left and the next day returned to 'finish the conversation' as they had promised. Ladina (may not be correct) the African American woman was there and I apologized to her for the previous day and admitted that I was embarrassed. She said she didn't understand what happened. I once again explained to her that I was disabled. I told her I would bring in proof. She said she didn't remember me being disabled. She said I was a student (this allowed for a more lenient schedule). I replied that I was a student as well as many other things. She again said she didn't remember me being disabled. I reminded her that I told them that right when I got in the room. She was puzzled so I reminded her that I was having a flashback when three women repeated yelled at me to stop yelling when I wasn't. I was simply speaking over the

loud equipment for my team. They took another couple days to let me know I was terminated. At first they said it was for being inconsolable. But when I went in to talk about ADA rights for disabled people they said I was terminated for calling them bitches in the office, which I didn't. Apparently the latino man mistook my aim when I used the word bitch. I am assuming he went back to them and said I told him the women in the office were bitches because he was the only one I used the word with when I explained that I had had horrible experiences similar to that and had a flashback.

RELIEF – If you win this case, what do you want the court to order the defendant to do?

Better training for management
 Don't disclaim people saying they are disabled.
 Don't incite emotional reactions when people are unstable
 Don't deny disabled people who request accommodations
 Don't tell disabled people they aren't
 Pay economic and non-economic damages

DOCUMENTS – I have attached a copy of the following documents:

- ☐ Charge Of Discrimination form filed with the Equal Employment Opportunity Commission or the Indiana Civil Rights Commission
- ☒ Notice of Right to Sue letter
- ☐ Other: _____

FILING FEE – Are you paying the filing fee?

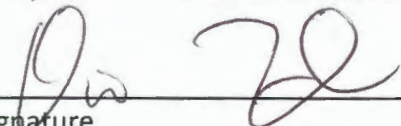
- ☐ Yes, I am paying the \$400.00 filing fee. I understand that I am responsible to notify the defendant about this case as required by Federal Rule of Civil Procedure 4. *[If you want the clerk to sign and seal a summons, you need to prepare the summons and submit it to the clerk.]*
- ☒ No, I am filing a Motion to Proceed In Forma Pauperis and asking the court to notify the defendant about this case.

[Initial Each Statement]

DF I will keep a copy of this complaint for my records.

DF I will promptly notify the court of any change of address.

DE I declare **under penalty of perjury** that the statements in this complaint are true.

DF 
 Signature

1-12-19
 Date